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C O N F I D E N T I A L SECTION 01 OF 02 CAIRO 003006

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NSC STAFF FOR SINGH

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SUBJECT: EGYPT: NOUR APPEAL DENIED, MIXED VERDICT IN JUDGES HEARING, MORE POLICE VIOLENCE

REF: CAIRO 2971 AND PREVIOUS

Classified by DCM Stuart Jones for reasons 1.4 (b) and (d).

1. (C) Summary: May 18 saw major developments in two key domestic political cases in Cairo. The conviction of imprisoned opposition leader Ayman Nour was upheld by Egypt's Court of Cassation, a decision led by a controversial judge in spite of the defense's citation of numerous technical flaws in the original judgment - flaws also cited in a report by the court's own clerks. Just upstairs from the Nour courtroom, a disciplinary hearing convened to consider the fate of two prominent judges (who blew the whistle on electoral fraud in the 2005 parliamentary elections) ended in an acquittal for one and a reprimand for the other. This decision fell far short of the worst case scenario and may serve to turn down the temperature in the ongoing dispute between the GOE and the Judges Club. Meanwhile, there was more police violence against demonstrators who turned out on the streets to express solidarity with the judges and/or Nour, in defiance of a government ban. Media reports indicate hundreds were arrested and many others injured. End summary.

Nour Conviction Upheld

2. (C) Egypt's Court of Cassation rejected on May 18 the appeal of opposition leader Ayman Nour, convicted and imprisoned for five years on December 24 on forgery charges. The panel of nine judges was chaired by Justice Salah Al-Bourgy, who has a reputation in judicial circles for turning down appeals, and who participated in the Supreme Judiciary Council's controversial investigation of Judges Club leaders for exposing fraud in last year's parliamentary elections.

3. (C) Nour's defense at the hearing was led by prominent attorney Farid Al-Deeb, who presented a lengthy attack on the December 24 judgment, citing numerous procedural and technical flaws in the prosecution's case. As noted reftel, a "technical report" prepared by Court of Cassation clerks had also identified numerous flaws in the original conviction. These technical reports, while not binding, are often predictive of Cassation verdicts.

4. (C) The hearing was sparsely attended, compared with Nour's chaotic 2005 trial - no doubt because of the extraordinary security measures taken around the Central Court complex: thousands of riot police set up cordons sealing off a roughly ten square block area to prevent demonstrators from approaching. Present during the hearing were members of Nour's family, Egyptian and international journalists, and other observers, including poloff and diplomats from the U.K., Canada, the Netherlands, Germany, and Austria, representing the E.U.

5. (C) After hearing from four members of Nour's defense, and a relatively brief rebuttal from the prosecution, Judge Al-Bourgy adjourned for deliberations and returned approximately 30 minutes later to announce that the court would reject Nour's appeal and uphold his conviction.

6. (C) After the verdict, we reached Amir Salem (protect), another member of Nour's defense team, who was in Strasbourg where he had been invited to give a talk to members of the European Parliament about human rights in Egypt and Nour's case in particular. He described the ruling as a "disaster" and worried that no obvious legal avenues remained for Nour at this point. (Note: Salem, an outspoken GOE critic, told us he had planned to attend the hearing, but was advised that he had been declared "inadmissible" by the court and decided to extend his stay in France. End note.)

7. (C) Prominent intellectual Osama el-Ghazali Harb told us he was not surprised by the decision, the latest stage in an "absurd play" brought about by the GOE's "ridiculous attitude" toward secular opponents. Nour's wife Gameela Ismail gave a brief statement to media after the verdict, which she described as "shocking" and a "total injustice." (Note: Poloff contacted Gameela several times in the past week to offer her a meeting with the Ambassador. She

demurred, but we have made clear that our door remains open to her. End note.)

Mixed Verdict in Judges Disciplinary Hearing

18. (C) Meanwhile, one level up from the courtroom, the Supreme Judicial Council's disciplinary board hearing convened to consider the cases of prominent judges Ahmed Mekky and Hisham Bestawissy, accused of defaming judicial colleagues by exposing to the media instances of fraud and manipulation in last fall's parliamentary elections. Mekky attended the hearing but Bestawissy was still in hospital recovering from a May 17 heart attack. Bestawissy, who has taken a tougher public line than Mekky, had said that he would not attend the hearing unless all of those arrested for demonstrating in solidarity with the judges were released.

19. (C) At approximately 2 p.m., just minutes after Nour's verdict was announced, Cassation Court Chief Justice Fathy Khalifa announced that the disciplinary board had decided to acquit Mekky of the charges and issue a reprimand to Bestawissy. The decision fell far short of the "worst case scenario" - dismissing both judges from the bench. The Judges Club, the de-facto professional association for Egypt's judges, had threatened to call a national strike if the two had been dismissed.

110. (C) Reacting to the verdict, Nasser Amin, head of the Arab Center for the Independence of the Judiciary and the Legal Profession, an NGO with close ties to the Judges Club told us "We are happy, but not ecstatic. This case underlines the need for a new law on judicial independence." Amin also opined that both the decision on the judges and the Nour case had been politically-influenced and suggested that the GOE had decided to compromise - giving ground on one issue while maintaining a tough line on another issue (Nour's case) apparently of more importance to them.

More Police Violence

111. (C) Clashes between demonstrators and riot police were reported in several areas. Police actions successfully kept demonstrators in pockets far removed from the central court house and insulated from each other. The GOE had warned earlier in the week that a ban on demonstrations would be strictly enforced. A Reuters photographer said she saw at least 20 demonstrators (who had been separated from their larger group) being beaten by plainclothes police near the courthouse. A group of about 100 Ayman Nour supporters were reportedly chased and beaten by police on Talaat Harb Street, about four blocks south of the court, 15 of whom were detained, according to Wael Nawara, Ghad Party Secretary-General. Members of the Kefaya protest movement

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attempting to march toward the court area were thwarted by police in Abbasiya, a neighborhood to the northeast. Kefaya spokesman George Ishaq told journalists that a number of his group's demonstrators had been "badly beaten."

112. (C) Essam El-Eryan and Mohammed Mursi, prominent members of the Muslim Brotherhood (MB) leadership were both reportedly detained, as riot police suppressed MB demonstrators who had turned out to support the judges. Some media reports stated that as many as 250 MB supporters had been arrested and over 100 injured in confrontations with police.

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